

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John E. Schier
Serial No.: 09/737,679
Filed: December 14, 2000
Group Art Unit: 2137
Confirmation No.: 2124
Examiner: Tamara Teslovich
Title: SYSTEM, METHOD, AND DEVICE FOR PROVIDING
SECURE OPERATING ENVIRONMENTS FOR
COMPUTER SYSTEMS

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Reply Brief

Appellant respectfully submits this Reply Brief under 37 C.F.R. § 41.41(a)(1) in response to the Examiner's Answer transmitted September 8, 2008.

On June 16, 2008, Appellant filed an Appeal Brief explaining clearly and in detail why the final rejection of Claims 1-4, 6-14, 19-31, and 34-39 is improper. On September 8, 2008, the Examiner mailed an Examiner's Answer to Appellant's Appeal Brief. Appellant maintains that the final rejection of Claims 1-4, 6-14, 19-31, and 34-39 is improper and responds to the Examiner's Answer below.

Argument

In response to the Examiner's arguments in the Examiner's Answer, Appellant responds as follows. Appellant will address the Examiner's arguments presented in the "Response to Argument" section of the Answer (pp. 13-23). Appellant relies on the arguments presented in the Appeal Brief, but will also briefly address some of the new assertions made in the Examiner's Answer.

I. Claims 1-4, 6-14, 19-31, and 34-36 Comply with 35 U.S.C. § 112, first paragraph

As discussed in Appellant's Appeal Brief, Claims 1-4, 6-14, 19-31, and 34-36 recite subject matter that is described in the Specification with sufficient detail such that one skilled in the art can reasonably conclude that the Appellant had possession of the claimed invention. In the Answer, the Examiner responds to Appellant's arguments by simply reiterating the Examiner's argument from the Final Office Action (as well as earlier office actions). As described below, the Examiner's position is flawed.

The Examiner does not dispute that Appellant had possession of a communication module that is isolated from the network. Instead, the Examiner argues that the delay timer is not isolated because the communication module does not include a delay timer. *See Answer, Pages 13-15.* The Examiner again seems to focus exclusively on the boxes in Figure 1, without the benefit of the description of Figure 1 in the Specification. For example, the Examiner explains "[h]er **opinion** is based on Appellant's use of two separate and distinct boxes and two separate and distinct part numbers [in Figure 1]." *See Answer, Page 15 (emphasis added).* First, Appellant respectfully notes that "[t]he examiner should **never** make the determination based on personal opinion." M.P.E.P. § 2164.05 (underlining and bold in original). Second, Appellant submits that it is clear from Page 7, line 29 to Page 8, line 7 of the Specification that, according to one embodiment, a communication module includes at least a delay timer and a communication port. As another example, Appellant submits that it is clear from Page 9, line 11 to Page 10 line 29 of the Specification that, according to one embodiment, the communication module and the delay timer are isolated from the network. Therefore, the Specification describes the claimed invention in sufficient detail such that one skilled in the art can reasonably conclude that the Appellant had possession of a communication module that includes a delay timer that is isolated from the network.

For at least these additional reasons, as well as the reasons provided in the Appeal Brief, Appellant respectfully submits that the Specification describes the claimed invention in sufficient detail such that one skilled in the art can reasonably conclude that the Appellant had possession of the claimed invention. Thus, Appellant respectfully requests that the Board reverse the Examiner's rejection of these claims under 35 U.S.C. § 112.

II. Netravali does not disclose isolating the communication module from the remote network location without terminating all power supplied to the communication module

As discussed in Appellant's Appeal Brief, Claim 37 is allowable at least because *Netravali* does not teach or suggest "isolating the communication module from the remote network location without terminating all power supplied to the communication module." In the Examiner's Answer on Pages 17-18, the Examiner contends that *Netravali* discloses this limitation because the Examiner "has relied upon Appellant's disclosure and its definition of isolation" and contends that Appellant has not limited "isolation" to discontinuing the reception of blocks of data, but this argument misses the mark. Appellant respectfully submits that even under the broadest reasonable interpretation of isolation, a receiver **continuing to receive data packets** does not teach or suggest **isolating a communication module**.

For at least these additional reasons, as well as the reasons provided in the Appeal Brief, Appellant respectfully submits that *Netravali* does not teach or suggest "isolating the communication module from the remote network location without terminating all power supplied to the communication module," as recited in Claim 37. For at least these additional reasons, Appellant respectfully submits that Claim 37 as well as the claims that depend from this independent claim are in condition for allowance. Therefore, Appellant respectfully requests allowance of these claims.

III. Landwehr does not disclose isolating the communication module and the delay timer from the network

As discussed in Appellant's Appeal Brief, Claim 1 is allowable at least because *Landwehr* does not teach or suggest "comparing the delay time interval to an activity associated with the system communicating with the network, the activity being any communication between the system and the network" and "isolating the communication

module **and the delay timer** from the network based on the comparison” (emphasis added). In the Examiner’s Answer on Page 19, the Examiner contends that *Landwehr* discloses this limitation because *Landwehr* teaches isolating circuit 28, but this is incorrect. Again, *Landwehr* does not teach or suggest that the delay timer is part of circuit 28. *Landwehr* **identifies the delay timer as being part of detector 18.**

For at least these additional reasons, as well as the reasons provided in the Appeal Brief, Appellant respectfully submits that *Landwehr* does not teach or suggest “comparing the delay time interval to an activity associated with the system communicating with the network, the activity being any communication between the system and the network” and “isolating the communication module **and the delay timer** from the network based on the comparison,” as recited in Claim 1 (emphasis added). For at least these additional reasons, Appellant respectfully submits that Claim 1 as well as the claims that depend from this independent claim are in condition for allowance. Claims 19 and 24 are allowable for analogous reasons, as are the claims that depend from these independent claims.

IV. Landwehr does not disclose wherein the network implements a TCP/IP transport language protocol

As discussed in Appellant’s Appeal Brief, Claims 34-36 are allowable at least because *Landwehr* does not teach or suggest “wherein the network implements a TCP/IP transport language protocol.” In the Examiner’s Answer on Page 20, the Examiner contends that *Landwehr* discloses this limitation because *Landwehr* teaches communication between circuits. Conspicuously absent from the Examiner’s Answer is any reference to a TCP/IP transport language protocol in *Landwehr*. This absence is not coincidental. Again, *Landwehr* is directed to a system that isolates devices such as a keyboard and mouse. *See Landwehr* Column 4, lines 1-5. Appellant respectfully submits that one of ordinary skill in the art would not be motivated to modify the keyboard and mouse devices of *Landwehr* to communicate over a network implementing a TCP/IP transport language protocol.

For at least these additional reasons, as well as the reasons provided in the Appeal Brief, Appellant respectfully submits that *Landwehr* does not teach or suggest “wherein the network implements a TCP/IP transport language protocol.” For at least these additional reasons, Appellant respectfully submits that Claims 34-36 are in condition for allowance. Therefore, Appellant respectfully requests allowance of these claims.

V. **Landwehr, Namma, and Virtanen do not disclose removing a communication module reference from a memory stack associated with the communication module, the communication module reference associated with enabling the communication module**

As discussed in Appellant's Appeal Brief, Claim 12 is allowable also at least because the cited references do not teach or suggest "removing a communication module reference from a memory stack associated with the communication module, the communication module reference associated with enabling the communication module." In the Examiner's Answer on Page 22, the Examiner contends that *Namma* discloses this limitation, but this is incorrect. *Namma* discloses erasing data from a **disconnection control table 42 that stores data indicative of non-communication**. Data from a **disconnection control table** in no way teaches or suggests a communication module reference **associated with enabling a communication module**. The Examiner contends that this data signifies an established connection, but this contention misses the mark. Data that **signifies an established connection** still fails to teach or suggest a reference associated with **enabling a communication module**. Again, data that indicates non-communication and established communication does not teach or suggest a reference associated with **enabling a communication module**.

Moreover, the Examiner failed to respond to Appellant's contention that the Examiner did not provide a clear articulation of the reason(s) why the claimed invention would have been obvious to one of skill in the art. Far from an explicit, articulated reasoning with some rational underpinning, the Examiner simply offers mere conclusory speculation that "[i]t would have been obvious to one of ordinary skill in the art to combine Lanwehr's [sic] secure identification system with Namma's teaching of removing data associated with communication connection in order to provide the improved method of disconnecting communication between clients and servers." See Final Office Action, Page 15. Again, according to the controlling case law, rules, and guidelines, this type of hindsight analysis, using Appellant's claims as a roadmap for summarizing references—in this case mischaracterizing contradictory references—is impermissible. See M.P.E.P. § 2142; *KSR*, 127 S.Ct. at 1740-41; *Examination Guidelines*, 72 Fed. Reg. at 57528-29.

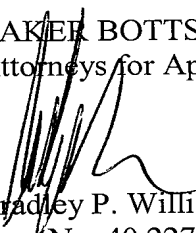
For at least these additional reasons, Claim 12 is allowable, as are Claims 13 and 14 depending therefrom. Claim 22 is allowable for analogous reasons, as is Claim 23 depending therefrom. Therefore, Appellant respectfully requests allowance of these claims.

Conclusion

Appellant has demonstrated that the present invention, as claimed, complies with all statutory requirements for a U.S. Patent. Therefore, Appellant respectfully requests the Board to reverse the final rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

Appellant believes no fees are due. Nonetheless, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Appellant


Bradley P. Williams
Reg. No. 40,227

Date: 11/5/08

CORRESPONDENCE ADDRESS:

Customer No.: **05073**